



LENA C. TAYLOR

Wisconsin State Senator • 4th District

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Testimony of Senator Lena C. Taylor

*SB 478 – Orders to Commit State Prison Inmates to a Mental Health Facility
Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, & Housing
February 8, 2009*

Honorable Members of the Committee,

Thank you for taking testimony on Senate Bill 478. This bill seeks to repeal arbitrary limits to the mental health commitments for inmates that are currently in place. Under current law, there is a 180-day limit within a 365-day period for commitment to a mental health treatment facility for inmates, while non-inmates can be committed up to six months.

Inmates of correctional institutions have traditionally been given lower priority for mental health treatment and services. Between the 1970s and 1990s the U.S. Prison Population grew exponentially, including those in Wisconsin.¹ Despite this growth, states, including Wisconsin emptied psychiatric hospitals into the streets with the promise that these patients would receive better treatment in community-based treatment facilities and supported housing. The facilities that were promised never appeared, so persons with very serious mental illness found themselves on the street and eventually in prison.

Mentally ill persons were essentially dumped into the correctional system. As proof of this, the statistics on vulnerable populations make the connection shockingly clear. One quarter to one half of the women's prison population has mental illness² and 48 to 88 percent of them have experienced sexual or physical abuse prior to incarceration. Two thirds of child prisoners have at least one mental illness³ that often stems from extreme childhood sexual or physical abuse.⁴ Immigrants in detention facing deportation also have similar issues with mental health, since they are survivors of trauma and torture awaiting credible fear interviews. Wisconsin tracks with these national statistics closely.

There is a cycle of violence that is perpetrated by the lack of stable mental health care. If inmates are not appropriately treated for the needed amount of time, this can lead inmates to re-offend with less hope for rehabilitation. Addressing the mental health issues and illnesses is essential for the safety and stability of society. Inmates with untreated mental illness become more perturbed in segregation or

¹ ACLU, Written Statement for a Joint Hearing on Human Rights at Home: Mental Illness in US Prisons and Jails. (September 2009)

² Human Rights Watch, Ill Equipped: US Prisons and Offender with mental Illness 38 (2003).

³ NYT, Mentally Ill Offenders strain Juvenile System, Aug 9, 2009.

⁴ ACLU, A Blueprint for Meeting the Needs of Girls in TYC Custody: Report and Recommendations to the Texas Youth Commission.

punishment placements. This means that they can become more violent and may hurt guards, themselves and eventually the public.

Treating mentally ill prisoners protects society when they are released from a correctional institution. Rather than being punished due to their serious mental illness, they are afforded the knowledge of how to treat and cope with their illness, which may help inmates not re-offend.

My office receives piles of letters from inmates pleading with us to help them with ignored serious medical and mental health needs. While addressing mental illness is not the panacea to all of society's problems, but it can truly rehabilitate inmates before they re-enter society. Prison time is about punishment and rehabilitation. It serves no one to simply punish prisoners; we must seek to rehabilitate those that are seriously mentally ill, it may be at the root of their criminal offenses.

Currently, there are many requirements for petitioning for mental health commitment for a person that is not an inmate. This includes asserting the person is seriously mentally ill, drug dependent or developmentally disabled, is a proper subject for treatment and is dangerous. The commitment can last up to six months and a consecutive commitment order can even last up to a year.

The rules however differ for inmates. Though is a basic human right to have access to medical care, there are stark and arbitrary limits to mental health commitment. To commit an inmate, there are a slew of requirements. For instance, one must file an alternative petition that must assert that the inmate is mentally ill, assert the inmate is a proper subject for treatment, is in need of treatment, and is informed of his treatment needs and furthermore, there must be a showing that less restrictive forms of treatment have not been successful. If all of these requirements are met, which are more than required for a person that is not an inmate, they are limited to receive treatment for a paltry 180 days total in a 365-day period.

This new reform of mental health for inmates repeals this 180 day limit and re-instates prior Wisconsin law allowing same 6 month limit with a limit to consecutive commitment to one year for inmates, which provides for better treatment and improved public safety. Today, you will hear expert testimony to that fact from DOC and DHS.

Wisconsin must show that it truly values public safety by passing SB 478. I encourage your support of this legislation.

Testimony of Dr. Kevin Kallas
Department of Corrections
Senate Bill 478
Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform
and Housing
February 8, 2010

Good morning Chairperson Taylor and Committee members. Thank you for the opportunity to testify on behalf of the Department of Corrections in support of Senate Bill 478. My name is Dr. Kevin Kallas and I am Mental Health Director of the Department.

It has been well-documented that individuals with mental health problems are finding their way into correctional facilities in increasing numbers. This is true for the Wisconsin Department of Corrections as elsewhere. We saw clear evidence of this increase in the 2009 Legislative Audit Bureau report on inmate mental health care, which pointed out that the number of Wisconsin inmates with mental health problems rose 14% in the 2-year period between 2006 and 2008. It is still increasing.

Of particular importance is the number of inmates with serious mental illness, which now stands at well over 2000 individuals. Addressing the treatment needs of this population requires not only the resources to provide good care, but a network of laws that supports involuntary commitment and treatment when these measures are needed and appropriate.

The alternative commitment standard under 51.20(1)(ar) allows the Department to pursue involuntary mental health commitment for inmates who are mentally ill, a proper subject for treatment, in need of treatment and who are not responsive to less restrictive measures. Absent is the requirement for the inmate to be dangerous as required by the standard commitment under 51.20(1)(a).

In crafting the alternative commitment standard, the legislature recognized that the custodial nature of a prison and its highly structured routines may allow an inmate who is severely debilitated by untreated mental illness to get by without demonstrating overt dangerousness. The same inmate may be much more likely to exhibit dangerous behavior when in the community due to the relative lack of structure and controls and the increased demands to provide food, clothing and shelter.

Psychotropic medications can be very effective in controlling symptoms of mental illness and are a cornerstone of treatment, especially for those who have severe mental illness and would typically be the subject of alternative commitments. Consistent adherence to medications is a key component of remaining stable. Limiting the time frame of an alternative commitment to 180 days in any 365 day period often results in an inmate stopping medication after the 180 days and leads to relapse of symptoms. Relapse of symptoms, in turn, can lead to increased suffering and disability on the part of the inmate, greater risk for self-harm attempts, assaultive behavior and additional time spent in more intensive treatment settings such as the Wisconsin Resource Center.

Continuity of care is an essential element of both best practice recommendations and community standards in the treatment of severe mental illness. Research demonstrates that the long-term prognosis of both psychotic illnesses and severe mood disorders is improved when there is continuity of care and longer periods of active medication treatment. The proposed bill, in providing for renewal of alternative commitments without interruption, allows both the Department of Health Services and the Department of Corrections to provide consistent and uninterrupted medication treatment for the subset of inmates who would be appropriate for the alternative commitment standard.

Thank you and I would be happy to answer any questions.



State of Wisconsin
Department of Health Services

Jim Doyle, Governor
Karen E. Timberlake, Secretary

Testimony of Byran Bartow
Department of Health Services
Senate Bill 478

Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform and Housing
February 8, 2010

Good morning Madam Chair and members of the Judiciary, Corrections, Insurance, Campaign Finance Reform and Housing Committee. Thank you Senator Taylor for introducing the bill and, as Chair, for providing the opportunity for a hearing today.

My name is Byran Bartow and I am the Director of the Wisconsin Resource Center. We've been looking for an opportunity to make this change for quite some time and are happy that we seem to be at the threshold of the change now. This is not only important for those of us who work with the mentally ill inmates in the correctional setting but it is also very important to the mentally ill inmates themselves, their families, and ultimately the communities where the inmates will return.

I'd like to start by briefly giving the background and the reason we need change before addressing the provisions of this specific bill.

Background

Under current law inmates at the Wisconsin Resource Center may be committed for mental health treatment in 3 ways: voluntarily, civilly committed, and alternatively involuntarily committed. The alternative commitment is used for those patients who do not show dangerousness to self or others but whose mental illness is in need of treatment nonetheless.

While civilly committed inmates can be treated on an uninterrupted basis, those committed for treatment at a mental health facility under the alternative commitment must have their involuntary treatment discontinued after 6 months. The initial period of involuntary treatment can not exceed 180 days in a 365 day period. Another six-month commitment order could be put in place in the next 12 months; however, there is always a lag between the initial six months and the second commitment order of at least 6 months and usually longer. This stopping and starting of medications diminishes the effectiveness of treatment and may even have harmful physical effects.

For example

- Stabilization on an antipsychotic medication typically requires a period of three to six months.
- Likelihood of an individual regaining their previous level of functioning decreases with each new episode of psychosis which is much more likely to occur if the patient is not medicated.
- Patients are at an increased risk for disorderly conduct when they are not taking their medications. This may result in longer incarceration time.
- Patients not treated with medication pose an increased risk of assaulting staff and other patients.
- This cycle of on and off medication results in inefficient and wasteful use of WRC resources and taxpayer dollars.

I want to assure the Committee that every effort is made to get inmates to participate voluntarily and we continue to engage patients and work toward voluntary treatment. The advocacy community recognizes that we are responsible in the way we use the alternative commitment authority as few people need to be alternatively committed.

The Bill

The bill would allow alternative commitments to WRC to be renewable for twelve month periods after an initial commitment of six months. This would align treatment policy for alternate commitments with civil commitments.

Thank you again for your consideration. Please feel free to ask me any questions you may have.